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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,448	10/08/2003	Benjamin A. Knott	130332.00079	9392
67942	7590	10/31/2007		
RAMAN N. DEWAN JACKSON WALKER, L.L.P. 100 CONGRESS AVENUE SUITE 1100 AUSTIN, TX 78701			EXAMINER CARLSON, JEFFREY D	
			ART UNIT	PAPER NUMBER
			3622	
			MAIL DATE	DELIVERY MODE
			10/31/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/681,448

**Applicant(s)**

KNOTT ET AL.

**Examiner**

Jeffrey D. Carlson

**Art Unit**

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/8/03, 5/2/07</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over HERZ et al (US 2001/0014868). HERZ et al teaches a dynamic, electronic, customized advertising system where shoppers are profiled based on demographics as well as online shopping and purchasing history. The system then selects customized advertising/information to be presented to the identified user or type of shopper in order to provide the most effective visual and textual ads. Displayed content can be subtly rearranged, lengthened or shortened from one type of shopper to the next [abstract, ¶ 5]. Stored offers can have different sets of values for various parameters such as price and advertising copy [¶ 73]. This type of targeting to groups/models of shoppers is taken to provide storage of various shopper models as well as alternative web content formats so that a matching process can be executed to deliver the custom targeted advertising. HERZ et al may not specify a default content to display to a default user, but it would have been obvious to one of ordinary skill at the time of the invention to have displayed a default ad to a particular new user until a meaningful user profile is generated over time as the user shopped using the system. Applicant's naming of

different user models with various terms (savings-focused, cost-focused, etc) does not limit or further define the method steps claimed. However, HERZ et al teaches that different groups can be identified as this is taken as teachings for different "models." Further HERZ et al specifies selective profiling and subsequent treatment for shoppers according to price sensitivity [¶ 5] as well as those who traditionally purchase lower cost alternatives within a certain product category [¶ 73]. Further still, the pricing (flat price of \$25, a \$25 sale price from \$35, 50% off of a \$50 item) can be presented according to the type/model of shopper and their cost or savings tendencies. HERZ et al teaches that the system can be used for any type of products and it would have been obvious to one of ordinary skill at the time of the invention to have presented customized technology ads for shoppers who have showed interest in technology products. The system of HERZ et al is taken to be a system where profile collection and custom advertisement selections are made in real time as the user is online.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 571-272-6716. The examiner can normally be reached on Mon-Fri 8a-5:30p, (work from home on Thursdays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jeffrey D. Carlson  
Primary Examiner  
Art Unit 3622

jdc